

## SENATE BILL NO. 477

INTRODUCED BY ELLIOTT, COCCHIARELLA, HAMILTON, LIND

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF CORRECTIONS TO ADOPT RULES ESTABLISHING A PER DIEM RATE FOR COMPENSATION THAT MUST BE PAID TO A REGIONAL CORRECTIONAL FACILITY FOR THE CONFINEMENT OF PERSONS IN THE STATE CORRECTIONAL FACILITY PORTION OF THE REGIONAL CORRECTIONAL FACILITY; AMENDING SECTION 53-30-507, MCA; AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 53-30-507, MCA, is amended to read:

**"53-30-507. Rulemaking authority.** (1) The department may adopt rules to implement this part, including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules must provide that in selecting a site, the department shall consider the need for a regional correctional facility in the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term contract with the department, and the availability of rehabilitative services to inmates. The rules must require that a corporation respond to a request for proposals prepared by the department for a regional correctional facility before a contract may be entered with that corporation.

(2) The department shall adopt rules that include the minimum applicable standards for the construction, operation, and physical condition of a state correctional facility portion of a regional correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of a regional correctional facility. The rules must require that a privately operated or privately owned and operated state correctional facility portion of a regional correctional facility conform to applicable American correctional association and national commission on correctional health care standards.

(3) (a) The department shall adopt rules pursuant to Title 2, chapter 4, that specify a per diem rate that must be paid to a regional correctional facility for the confinement of persons in the state correctional facility portion of the regional correctional facility.

(b) The rules adopted pursuant to subsection (3)(a) must include but are not limited to:

(i) a definition of per diem rate;

1 (ii) a method of calculating the per diem rate; and

2 (iii) the costs to be included in the per diem rate calculation.

3 (c) At a minimum, the per diem rate must include compensation for:

4 (i) direct costs, including budget expenditures directly attributable to confining inmates;

5 (ii) indirect costs, including budget expenditures that are not directly associated with the confinement  
6 of inmates but that are incurred to provide support services for the regional correctional facility;

7 (iii) capital costs, including depreciation or a pro rata portion of capital costs incurred; and

8 (iv) other costs that the department determines are necessary, including medical or transportation costs.

9 (d) The department shall determine by rule the costs that are not allowable as part of a per diem rate.  
10 Unallowable costs must include programs and services that do not have a direct benefit to persons confined in  
11 the regional correctional facility and depreciation for capital improvements paid for by the department and  
12 depreciation for equipment used in providing support services.

13 (e) A population factor must be included in the per diem rate to allow for accurate compensation based  
14 on the number of inmates confined in the regional correctional facility.

15 (f) The rules must provide for billing procedures and must allow for review of the per diem rate at least  
16 once each fiscal year. When reviewing the per diem rate, the department shall accept public comment that must  
17 be considered when the department is determining the accuracy of the per diem rate for the next fiscal year."

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19 **NEW SECTION. Section 2. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1,  
20 2006.

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